

Seattle Urban Forestry Commission

Elizabetha Stacishin-Moura, Chair • Matt Mega, Vice Chair • Nancy Bird • Gordon Bradley
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| October [15](#), 2010

Honorable Council President Richard Conlin
Chair, Regional Development & Sustainability Committee
Seattle City Council
PO Box 34025
Seattle, WA 98124

RE: DPD's proposed tree regulations follow up

Dear Council President Conlin,

On July 14, 2010 the Department of Planning and Development (DPD) released the City of Seattle Proposed Tree Regulations document. Public comment for this proposal will end on October 31, 2010. On August 13, 2010 the Urban Forestry Commission provided Council with an initial letter stating our concerns with the proposal as released. Our letter today reiterates those concerns and provides detailed suggestions on how to move forward with the process in a positive and constructive manner. While there are elements of the proposal that we do support there are several elements that need further refinement and others that need to be added and/or re-evaluated. Our comments are divided into three broad categories:

1. Process (both public and internal)

- A more inclusive public process is needed.
- Public comment period needs to be extended.
- City Departments, such as City Light, SPU, Parks and Department of Neighborhoods need to provide written input.
- The Urban Forestry Commission needs to be engaged more constructively.
- Arborists and those with specific urban forest responsibilities need to be engaged more constructively.

2. Goals of an effective tree protection ordinance

- Promote a healthy urban forest across the city.
- Elevate and recognize the urban forest as critical infrastructure.
- Provide stronger protections for larger trees.
- Ensure public education and outreach is integrated into the release and implementation of the tree protection ordinance.
- Ensure a comprehensive urban forest management approach.
- Formally adopt and implement the Urban Forest Management Plan.

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3. **Tools for implementing an effective tree protection ordinance**

- A permit system to manage, slow and document tree removal.
- Professional standards to ensure safe and competent removal of trees.
- Tree standards to establish best practices.
- Development Standards to promote design creativity, minimize tree loss, and allow flexibility to meet the standards.
- Mitigation standards to minimize impact and ensure canopy growth over the long-term.

We hope this letter helps Council evaluate the proposed regulations as they move toward ordinance development. Specifically we feel Council should consider the following changes to the process.

1. **Slow the process down by several months** allowing DPD to fully incorporate the comments received, complete additional research, and engage the public and the Urban Forestry Commission on ordinance details (i.e., permit system)
2. **Hold a series of Townhall meetings** that engage the public in meaningful conversation about the urban forest and specific elements of the proposed regulations.
3. **Have DPD seriously consider the Commission's recommendations** below and work with the Urban Forestry Commission to vet the issues and determine feasibility of incorporating our recommendations.

Below we provide a more expansive explanation of our main points

Process (both public and internal)

More inclusive public process and more engaged internal process

To date only one open house has been held by DPD on September 21, 2010 to gather general feedback from the citizens of Seattle. DPD did present the tree proposal to a variety of 'standing' groups, but we believe the comment period will end on October 31 without sufficient citizen representation. The Commission fully understands that Council cannot extend DPD's comment period. We are recommending Council provides their own public comment period to address specific elements DPD has dismissed or removed from the proposal. Specifically these elements include, the adoption of a permit process for tree removal, providing details on the proposed tree credit system, the inclusion of bonding requirements for tree establishment and qualifications for professional arborists working in the City. In addition, the Commission is recommending a more inclusive internal process that engages other City Departments and this

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Commission not only in commenting on the proposal but also providing elements and language that should be added. Significant weight should be given to the input of city arborists in this process.

To date the process has followed a typical internal document creation methodology by DPD with a complete unveiling of a single document to the Mayor, to Council, to the Urban Forestry Commission and to the public all at once. DPD should consider a more iterative process where the large complex pieces of the regulations can be discussed in some depth. For instance, once DPD decided against the permit system this knowledge should have been vetted through the Urban Forestry Commission. The removal of a permit system, the exceptional tree element, and the three trees per year requirement all caught the Commission off guard. DPD could have and should have briefed the Commission and the Council on these major proposed changes before going public.

Goals of an effective tree ordinance

Healthy Urban Forest Across the City:

A healthy urban forest includes a *sustainable mix of trees and shrubs of various species, ages and geographic distribution*. It places value on large and tree groves. It also ensures the *distribution of large trees* throughout the city for equitable access. The monetary and habitat values of a vibrant urban forest should be measured and promoted.

Elevation of Trees as Infrastructure:

The understanding that *trees are critical urban infrastructure* has most certainly grown over the last few years. However, the Commissioners believe more needs to be done. Specifically the tree protection ordinance needs to be more explicit in its acknowledgment of the monetary *and public health* benefits of a healthy urban forest. For instance, the cost-benefit analysis on whether or not to implement a permit system in the DPD proposal only took into account the direct cost to city staff budgets, but did not account for the monetary benefit accrued by the ecosystem services provided by a healthy urban forest. A permit system which reduces the premature removal of trees will save money in stormwater management or air pollution mitigation.

Provide Stronger Protections for Larger Trees

Larger trees provide more benefits than smaller trees. The City needs to be cognizant that if we shift our urban forest from one of more mature higher value trees to one of smaller more ornament trees we will lose ecosystem function and benefits. The Exception tree element has been removed by DPD, but the Commission feels strongly that some element needs to be added to address the desire to protect large mature trees, especially native trees and native conifers.

Public Outreach:

Public outreach while not explicitly part of the tree protection ordinance is still an integral component of the process. Especially, since DPD has proposed the removal of all

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regulation of trees on private property outside of development (over 99% of the private land in the city). The DPD proposal as written could shift costs and responsibilities to preserve and enhance the urban forest on to other city departments. For instance, with no tree regulations or reporting requirements on single-family property the city will need to ramp up its tree give away programs to ensure the 30% tree canopy goal is met. DPD does not plant trees, nor maintain trees. Will the new regulations create unintended financial consequences on those city departments required to ensure the 30% canopy goal is met through tree management and planting?

Comprehensive Urban Forest Management:

To ensure successful protection and enhancement of the urban forest, the City of Seattle must look at the urban forest in a *comprehensive* manner. From the perspective of the tree protection ordinance itself this means an *equitable* ordinance with *clear compliance and equitable mitigation requirements*. It means that there needs to be a strong *enforcement* mechanism with *punitive measures as a deterrent*. From the larger perspective it means the city must implement the tree protection ordinance and all other urban forest efforts *efficiently*.

Formally Adopt and Implement the Urban Forest Management Plan (UFMP):

By ratifying the UFMP and the 30% tree canopy cover goal and the mechanisms within the UFMP to meet this goal, the Council will signal their commitment to our City's urban forest and provide a tangible goal to evaluate the effectiveness of the tree protection ordinance against. Implementation of the tree ordinance and achieving the City's 30% canopy goals requires that a *realistic budget* be created, approved and sustained.

Tools for implementing an effective tree protection ordinance

Permit System

The DPD proposal spent significant time refuting the feasibility of a permit system. Its conclusion relied heavily on additional costs and their determination of effectiveness. The Commission disagrees with DPD and recommends that Council take another look at the permit system and its feasibility for Seattle. Specifically, we recommend a full cost accounting that looks at the potential cost savings benefits of a permit system as well as the costs. During public comment to the Commission, a citizen stated that the City of Atlanta receives a significant amount of money from permits and fees as part of their urban tree protection efforts. We would like to see DPD follow up on these reports to determine if Atlanta, a city similar in size to Seattle, can in fact implement a cost effective permit system.

Below are four distinct advantages the Commission feels a permit system will bring to Seattle. If the city decides against a permit system it must decide how to achieve these benefits or they will not meet their canopy cover goals.

- **Tracking:**

Knowing exactly when, where and what type of trees are being removed in the city is a vital tool to measure progress toward the canopy cover goals. Under the proposed DPD changes, private landowners have no requirements to meet

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before removing a tree. At the very least this could lead to unsafe removal that puts neighbors or the public at large in danger. There is no method of even volunteer registration of tree planting.

- **Public Education**

The permit application process is an opportunity to give a homeowner pause and promote alternatives to removal. In some cases posting to inform neighbors of removal plans may also be warranted.

- **Enforcement**

The current complaint driven enforcement system would function much better in conjunction with a permit system. Citizens or staff could easily check to see if a permit was obtained. When a tree is removed without a permit or based on incorrect information the penalties can be straightforward and easily collected.

- **Recognition of Value and Benefits**

DPD's case against a permit system, they equated permits with the permanent protection of certain trees and the burden it would place on citizens. The commission believes that a simple online permit system would be sufficient in many cases and could easily reduce the cost to DPD and the burden to citizens. The protection of large trees is part of the UMFP, but so is the removal of hazard trees. Many trees eventually become too big for their space in the urban environment and in some cases require removal for safety. Public safety is often cited as a primary reason permits are currently required for sewer work, fixing retaining walls, building high fences, electrical work, building decks and many other activities. A permit system will help elevate trees to urban infrastructure status and ensure that the work is being done safely and efficiently by trained professionals. A permit system may or may not be the best method for Seattle, but we believe DPD needs to do a better analysis than simply concluding it costs too much and burdens citizens.

Specifically we recommend a permit or registration system that incorporates the following elements:

- Online access with the ability to apply and print documentation from home.
- Collect tree and parcel information appropriate to homeowner understanding.
- An education component that promotes options to removal and programs for replacement.
- A mechanism to stop people from unknowingly removing trees illegally such as street trees they may think they own.
- A public posting period to allow public input.
- Size and location thresholds above which a certified arborist must be engaged to do the work. We recommend that any tree over 6" DBH require a permit and that any conifer tree over 18" or deciduous tree over 24" require a certified arborists consultation.
- Emergency approval mechanisms for removing diseased trees which pose a threat to the larger urban forest.

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Professional Standards

One of the key ways to ensure safe removal or pruning of trees is to require professional standards. Currently, the only qualification that the City requires of tree companies and arborists working for private clients is a business license. To ensure the implementation of an effective tree ordinance the city needs to be diligent in who is doing the tree work and the professional standards that should be required. Tree care professionals are also more inclined to suggest pruning options verses total removal. Enforcement and damages for improper work by professional companies should be part of the ordinance.

We recommend that the ordinance establish the following:

- Thresholds above which all work must be done by a certified Arborist. We recommend that any tree over 6" DBH require a permit and that any conifer tree over 18" or deciduous tree over 24" require a certified arborists consultation.
- Professional registration of Arborists working in the city.
- Strong penalties for those who violate the tree protection ordinance as part of their business practice.

Tree Standards

In order to promote the establishment of a healthy and varied urban forest the ordinance should require appropriate tree selection and proper planting and maintenance standards.

We recommend that the ordinance should establish the following:

- Best practices should be required and established by secondary documents such as planting details and specifications, maintenance standards and approved tree selection lists.

Development Standards

The current proposed regulations do have some good elements to minimize tree removal on parcels undergoing development. Some of these elements, like the tree credit system need to be further refined before a complete evaluation of their effectiveness can be made.

- **Tree Credit in SF Zones**

The proposed tree credit for single family zones is a good approach. The proposed credits however do not place enough weight or incentive on tree preservation and it is unlikely that a tree would be maintained under new construction or major renovation. As written the tree credit system is most likely to lead toward a reliance on small caliper trees and not achieve the desired goal of promoting and protecting large mature trees. The Commission also would like to see a better approach to the protection of conifer and native trees within the credit system.

- **Green Factor for MF, Commercial**

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The proposal refers to monitoring the 2009 revisions to the Green Factor for effectiveness in tree preservation however since this proposal intends to give flexibility and incentives for tree retention we suggest that the Green Factor reassessment occur with this change in code and not wait for additional monitoring. The Green Factor likely needs additional incentives to allow for tree retention.

- **Industrial Zones**

We agree with the tree planting requirements for commercial uses in industrial zones however we also suggest that some tree planting or offsite mitigation within these zones should be required for sites under development. Locations within industrial zones for mitigation should be identified as part of the city wide canopy coverage.

- **Bonding**

The city should investigate financial programs such as landscape maintenance bonds to ensure survival or required trees.

We recommend that the ordinance should establish the following:

- A tree credit system that promotes large trees, especially native conifers.
- A green factor that provides additional incentives for tree retention.
- A bonding program that ensures tree survival.

In summary, an effective tree ordinance protects all elements of the urban forest: both public and private, both inside and outside of development. An effective tree ordinance is comprehensive, bold and enforceable, yet predictable and flexible. It maintains the health of a diverse and geographically dispersed urban forest and recognizes the urban forest as an integral part of the green infrastructure system. Trees are elevated to the same status as stormwater management elements, transportation and sewer infrastructure.

Thank you for the opportunity to comment and please contact us with any questions you may have. We look forward to continuing to work with the Mayor City Council, City Departments and our citizens to ensure protection and enhancement of our urban forest.

Sincerely,